IN THE HIGH OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

MONDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND SSEVEN

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

* * *

WRIT PETITION No.4361 of 2007

Between:

K. Surya Bhasker Reddy & Anr. … Petitioner

Versus

The Govt.of India,
Rep by its Secretary,
Ministry of Home Affairs,
New Delhi & Anr. . … Respondents

Counsel for the Petitioners : Sri C. Raghu

Counsel for the Respondents: None Appeared

THE HONOURABLE SRI JUSTICE P. S. NARAYANA

WP.NO.4 3 6 1 of 2007

O R D E R

This Court ordered notice before admission on 15-6-2007.

2. The writ petition is filed for a writ of mandamus to direct the second respondent to receive the application of the petitioner's minor daughter, Kumari Kovvuri Ramyasri for re-issuance of Passport bearing No.B-5384832 with corrected date of birth as 31-8-1993 and issue the passport with corrected date of birth and to pass such other suitable orders.

3. It is stated that the petitioner is the father of Kovvuri Ramyasri and the second petitioner is her mother. She was born on 31-8-1993. A birth certificate was duly issued by Ramachandrapuram Municipality stating that she was born on 31-8-1993. The said birth certificate was obtained on 31-10-2002. All the family members had applied to the second respondent for issuance of passports in the year 2001. The second respondent had issued passports. The date of birth of Kovvuri Ramyasri had been entered as 11-5-1993 instead of 31-8-1993. It is stated that the petitioners could not notice the same immediately. But when the petitioners went there and filled up the application with corrected date of birth the respondents did not receive the application. Thereafter, the petitioners were requesting the second respondent to receive the application and in the meanwhile, the period of passport had been expired on 03-5-2006.

Therefore, the petitioners had to make fresh application for re-issuance of passport.

4. It is stated that the petitioners went to the second respondent for re-issuance of passport in the name of their daughter, Kovvuri Ramyasri with corrected date of birth as 31-8-1993 but the first respondent refused to receive the application on the ground that the date of birth is varying. Therefore, the petitioners were constrained to file the present writ petition.

5. It is stated that the Government of India had issued instructions/clarifications in Circular dated 18-4-2001 directing the second respondent to correct the date of births if satisfied after verification of all the records. Therefore, the second respondent is bound to accept the application of the petitioners, since the petitioners produced the date of birth certificate and the respondents are bound to correct the date of birth and re-issue the passport. The respondents cannot refuse to accept the application for re-issuance of passport with corrected date of birth.

6. The Circular dt.18-4-2001 reads as hereunder:-

Ministry of External Affairs

(PV-I Section)

Circular

___/401/2/5/2001 *18th April, 2001*

As per the current practice, in case of change

of date of birth/place of birth, the applicant is required to produce the original declaratory order from a First Class Judicial Magistrate. However in view of the recent Judgment given by the High Court of Judicature at Mumbai in CWP No.1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

Sd//
(Manju)
Under Secretary (PV-I)

All Passport Issuing Authorities

Copy for information to L&T Division, MEA

7. In those circumstances, the petitioners approached this court praying for the reliefs as specified supra. This court in ***Mohd.Narsullah Khan v. Regional Passport Officer, Hyderabad***[1] the learned Judge observed at paras 4, 5, 6 and 7 as hereunder:-

> *" I n* ***Ali Imran v. Regional Passport Officer, Secunderabad (2003 (4) ALT 474 = 2003 (3) ALD 625,*** *I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the Judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under:*
>
> *(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*
>
> *(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may affect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.*
>
> *(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., School/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by*

another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the Judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt.18-4-2001.

Following the Judgment of this Court in ***Ali Imran (referred above)*** *this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/01/0190544/2 PRIVATE, issued by the Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and to pass appropriate orders in the light of the observations made in the above Judgment. There shall be no order as to costs .*

7. It is needless to say that the second respondent is bound to consider the application if any made in accordance with law. IN view of the same, the second respondent is directed to receive the application of the petitioners minor daughter, Kovvuri Ramyasri for re-issuance of passport bearing no. B-5384832 with correct date of birth as 31-8-1993 and pass appropriate orders in the light of the circular and decisions referred to supra, within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is disposed of at the admission stage. No costs.

JUSTICE P . S. NARAYANA .

17 / 9 / 2007

lsL.

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[1] 2005(1) ALT 95